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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/462,995 01/14/00 LANGLOIS

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EXAMINER

MAIER, L

ART UNIT

PAPER NUMBER

1623

DATE MAILED:

08/11/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/462,995

Applicant(s)

Langlois

Examiner

Leigh Maier

Group Art Unit
1623



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle* 835 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 22-44 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 22-44 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☒ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____

☒ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 4

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

Howard C. Lee

Howard C. Lee
Primary Examiner
Art Unit 1623

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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DETAILED ACTION

Status of the Claims

Claims 1-21 have been canceled. Claims 22-44 have been added and are pending.

Priority

Acknowledgement is made of claim to foreign priority. Documents have been received in this national stage application from the International Bureau.

Claim Rejections - 35 U.S.C. § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 22 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 22 recites "...a deacetylated xanthan...", but claim 29 recites "...the percentage of acetyl groups in the xanthan gum is less than 3%.", so "deacetylated" clearly does not mean 100% deacetylated. Furthermore, the 3% figure is unclear as to whether it refers to the total number of OH groups (about 9% acetylation for native xanthan--acetyl/11 OH s) or the number of inner mannose moieties.

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Claim Rejections - 35 U.S.C. § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 22-26, 28-35, and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Doherty et al (EP 0765939).

Doherty et al disclose a solution of non-acetylated xanthan, 1000 ppm of xanthan in 50,000 ppm of NaCl brine. (See p 10, example 7) The non-acetylated xanthan is disclosed as a viscosifying agent for aqueous solutions, particularly for use in oil recovery.

Claims 22, 24-26, and 36-44 are rejected under 35 U.S.C. 102(b) as anticipated by Patton et al (GB 1,080,248).

Patton et al disclose the use of carbohydrates produced by the genus *Xanthomonas*, xanthan gum, in drilling fluids. The precipitation step involved in the preparation of these carbohydrates that leads to deacetylation. (Page 2, lines 95-100) Patton et al also disclose the use of additives: weighting compounds such as barium sulfate; mineral colloids such as bentonite; and fluid loss control agents such as carboxymethylcellulose. (Page 3, lines 89-128)

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Claim Rejections - 35 U.S.C. § 102 or § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 22, 24, 25, 27, and 36 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Sandiford (US 4,069,869).

Sandiford teaches the use of water soluble polymers such as heteropolysaccharides produced by the genus *Xanthomonas* with sodium silicate for solutions used in enhanced oil recovery. (See col 2, lines 58-69; col 6, lines 4-29; col 7, line 65 through col 8, line 4) Sandiford does not specifically teach the use of deacetylated xanthan; however, it is an inherent property that xanthan is deacetylated during preparation. (See Patton, et al, *supra*)

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Given that the applicant's definition of deacetylation is unclear, the scope of deacetylation may be different. In that case, the known rheological property of deacetylated xanthan, that is, being a better viscosifier than native xanthan, (See Doherty, et al, page 4, lines 13-17 and 31-34) would have made it obvious to have used the deacetylated polysaccharide. Sandiford uses the water-soluble polymer because of their ability to form viscous solutions at relatively low concentrations. (See col 3, lines 31-33) The skilled artisan would have been motivated to have used deacetylated xanthan, the superior viscosifier, in place of the native to obtain the benefit of a lower concentration necessary to prepare an adequately viscous solution.

Examiner's hours, phone & fax numbers and other useful information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leigh Maier whose telephone number is (703) 308-4525 and e-mail address is Leigh.Maier@uspto.gov (NOTE: **The U.S PTO does not accept responsibility for the security of e-mail transmissions by the applicant(s).** Thus, e-mail sent to an examiner should not include confidential information. For further details, see the PTO Internet Usage Policy which has been published in the Federal Register of 21 June 1999, volume 64, number 118.) The examiner can normally be reached on Monday-Friday 8:00 to 4:30 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Gary Geist (703) 308-1701, may be contacted. The fax phone number for Group 1600, Art Unit 1623 is (703) 308-4556 or 305-3592.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-1235.

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Visit the U.S. PTO's site on the World Wide Web at <http://www.uspto.gov>. This site contains lots of valuable information including the latest PTO fees, downloadable forms, basic search capabilities and much more.

Secure and confidential access to patent application status is now available; see <http://www.uspto.gov/ebc/index.html> for more information.

Applicant(s) may pay patent maintenance fees, non-filing application fees and maintain USPTO accounts through <http://www.uspto.gov/web/offices/ac/comp/fin/clonedefault.htm>

Leigh C. Maier
Patent Examiner
August 9, 2000

Howard C. Lee

